THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.4086 OF 2006

Dated: 02-03-2006

Between

Smt. Abeda Begum,

W/o. Late Moid Omer,

Occ: Household,

R/o. H.No.5-6-246/3,

Agapura, Hyderabad.

...PETITIONER

AND

The Assistant City Planner,

Circle No.1, M.C.H.,

Sardar Mahal, Charminar,

Hyderabad and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the first respondent dated 22.02.2006 in orally threatening her to hand over the premises Nos.22-5-280 and 22-5-281 situated at Kali Kaman, Gulzar House, Hyderabad without following the land acquisition proceedings as illegal and arbitrary.

Heard the learned counsel for the petitioner as well as the learned standing counsel for the

respondents.

Learned counsel for the petitioner submits that the petitioner is the joint owner of the aforementioned premises and eking out her livelihood with rents derived from the said premises. While so, the respondent – corporation has taken up the road widening programme due to which the mulgies of the petitioner are affected and the first respondent along with his staff visited the premises of the petitioner and threatened to demolish the said mulgies. The main grievance of the petitioner is that the respondents have not issued any notice before deciding to demolish the said shops and they are trying to demolish the shops for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act, without following due procedure prescribed under law, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the premises of the petitioner or dispossess him without following due process of law either under Section 146 or 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

March 2, 2006

DSK